

PETER J. ELIASBERG (SBN 189110)  
peliasberg@aclusocal.org  
JONATHAN MARKOVITZ (SBN 301767)  
jmarkovitz@aclusocal.org  
ALYSSA MORONES (SBN 343358)  
amorones@aclusocal.org  
**ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA**  
1313 W. 8th Street  
Los Angeles, CA 90017  
Phone: (213) 977-9500  
Fax: (213) 977-5299

DAVID LOY (SBN 229235)  
dloy@firstamendmentcoalition.org  
KHYRSTAN POLICARPIO (SBN 349170)  
kpolicarpio@firstamendmentcoalition.org  
**FIRST AMENDMENT COALITION**  
534 4th St Ste B  
San Rafael, CA 94901  
Phone: (415) 460-5060

*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

UPNEET DHALIWAL and JULIE  
GEARY,

Plaintiffs,

vs.

JOSEPH KOMROSKY in his official  
capacity as president of TEMECULA  
VALLEY UNIFIED SCHOOL  
DISTRICT BOARD OF TRUSTEES,  
and TEMECULA VALLEY  
UNIFIED SCHOOL DISTRICT

Defendants.

CASE NO. 5:23-CV-02605-JGB (SHK)

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND  
NOMINAL DAMAGES**

[Pursuant to 42 U.S.C. § 1983 for violation  
of the First Amendment; Cal. Const., Art.  
I, XIV §§ 2,3; Cal. Gov't Code §§ 54960,  
54960.1, 54960.2 (the Ralph M. Brown  
Act); Amendment pursuant to  
Fed. R. Civ. P. 15(a)(1)(A)]

## **JURISDICTION AND VENUE**

1  
2 1. This action seeks declaratory and injunctive relief, as well as nominal  
3 damages, to remedy the deprivation of Plaintiffs' federal and state constitutional and  
4 statutory rights and to prevent the Temecula Valley Unified School District Board of  
5 Trustees (the "Board") and its President, Defendant Joseph Komrosky, from  
6 violating their rights in the future. This Court has jurisdiction over the federal civil  
7 rights claims under 28 U.S.C. §§ 1331 and 1343. Declaratory and/or injunctive relief  
8 is authorized under 28 U.S.C. §§ 2201 and 2202. This Court has supplemental  
9 jurisdiction over the state law claims under 28 U.S.C. § 1367(a). The Court's  
10 exercise of supplemental jurisdiction over Plaintiffs' claims under state law is  
11 proper, as the state law claims "are so related to [Plaintiffs' claims] that they form  
12 part of the same case or controversy." 28 U.S.C. § 1367(a).

13 2. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants  
14 reside in, and all incidents, events, and occurrences giving rise to this action occurred  
15 in the County of Riverside, California.

16 3. Plaintiffs Upneet Dhaliwal and Julie Geary (collectively, "Plaintiffs") allege  
17 as follows:

## **INTRODUCTION**

18  
19 4. Defendant Komrosky has repeatedly ordered numerous members of the  
20 public, including Plaintiffs, removed from Board meetings when they were not  
21 engaged in disruptive conduct, and without adequate warning, in violation of the  
22 public's federal constitutional and state statutory rights to petition government and  
23 observe and/or participate in the conduct of the people's business on matters of great  
24 interest and importance, and of California's open meetings law, the Ralph M. Brown  
25 Act, California Government Code §§ 54950-54963 (the "Act" or the "Brown Act").  
26 Mr. Komrosky has implemented an expulsion process that ensures systemic  
27 repetition of these violations, which will chill the ability of Plaintiffs and other  
28 members of the public to participate in future board meetings.



1 resident of Riverside County and Temecula. She has been a resident of Temecula  
2 Valley for most of the past 25 years. She and her husband bought a home in the area  
3 because of the high quality of the public schools. She cares about the issues that the  
4 Temecula Valley Unified School Board works on because she is a teacher and  
5 Temecula is her community. As a teacher, she cares deeply about the right to a free  
6 and fair public education, and about fundamental constitutional rights and civil  
7 liberties. As someone who is devoted to ensuring that children in her community  
8 receive a meaningful education and who values community engagement in  
9 government affairs, she has been outraged and dismayed as she has watched Mr.  
10 Komrosky expel numerous people from multiple Board meetings when they were not  
11 creating any kind of disturbance or interfering with the way the Board members were  
12 conducting the meetings. Mr. Komrosky ordered Ms. Geary removed from three  
13 recent Board meetings when she was quietly expressing concern about Board actions  
14 while seated in the audience. She was escorted out of the room by three armed  
15 sheriff's deputies at two of those meetings. Her expulsion from the first meeting was  
16 covered on television news, and Ms. Geary was forced to reassure friends and  
17 colleagues that she had not been arrested and was only standing up to defend  
18 people's constitutional rights.

19 10. Mr. Komrosky's actions have also made Ms. Geary a target for people who  
20 attend Board meetings and disagree with her positions. The atmosphere at recent  
21 board meetings has been particularly heated, and people who support Mr. Komrosky  
22 have followed Ms. Geary to her car and posted videos of her online claiming that she  
23 is a groomer or pedophile.

24 11. On August 21, 2023, Ms. Geary sent a letter to Mr. Komrosky and all Board  
25 members informing them that Mr. Komrosky and the Board had violated the First  
26 Amendment, the Brown Act, and the California constitution in numerous ways over  
27 the previous several months, that the violations continued through the present, and  
28 the Board had enacted policies that would ensure continued violations in the future.

1 The letter demanded that the Board cease and desist violating the public's rights.

2 12. Mr. Komrosky's actions have made it more difficult for Ms. Geary to attend  
3 Board meetings and harder for her to speak out. She has continued attending  
4 meetings. But the Board's actions against her have made her want to attend less  
5 frequently because it has become too emotionally taxing. She decided not to attend  
6 the October 17, 2023, and November 14, 2023 meetings because she did not want to  
7 subject herself to the same kind of treatment again. She decided that it was not worth  
8 it to try to exercise her rights if she risked being thrown out by law enforcement for  
9 doing so. She still wants to attend Board meetings in the future, partly because she  
10 knows there are other people who won't feel comfortable speaking, and she can  
11 express concerns that they are not willing to express. But she feels Defendants have  
12 created a hostile atmosphere at the Board meetings that exacts an emotionally  
13 exhausting and draining toll. So she does not plan to attend as often as she would  
14 otherwise and cannot exercise her rights to free speech and to petition the  
15 government without considerable personal cost.

16 **Defendants**

17 13. **Defendant Joseph Komrosky** is sued in his official and individual  
18 capacities. He is the President of Defendant Temecula Valley Unified School District  
19 Board of Trustees.

20 14. **Defendant Temecula Valley Unified School District Board of Trustees**  
21 **("Board")** is the governing body of Defendant Temecula Valley Unified School  
22 District. *See* Cal. Educ. Code § 35010(a).

23 15. **Defendant Temecula Valley Unified School District ("TVUSD")** is the  
24 local education agency governed by the Board. Its headquarters are at 31350 Ranch  
25 Vista Road, Temecula, California, 92592. It is responsible for adopting regulations  
26 governing the conduct of Board meetings. *See* Gov't Code § 54954.3. The disruptive  
27 conduct regulations adopted by Defendant TVUSD are, therefore, official Board  
28 policy.

## **STATEMENT OF FACTS**

### **A. Policies Implemented by Defendant Komrosky and the Board to Expel Members of the Public from Board Meetings**

16. Mr. Komrosky has taken an innovative approach to expelling members of the public from open Board meetings, relying on a penalty card system loosely borrowed from soccer matches.

17. Mr. Komrosky inaugurated his penalty card system at the June 27, 2023 Board meeting, where he explained: “If you cause disruptions you will be removed. What I’m gonna do tonight, we’ll do something new to save time. If I give you this (holding yellow card up), from all my soccer buddies that’s your first warning. If I give you a second one and this, (holding red card up), you’re out, you can see yourself out. A disruption can be a loud outburst or even something like constant talking in the rear that causes one of the board members and staff here to lose the ability to concentrate and thus govern properly. Also, when people are commenting, no yelling. There’s going to be controversial comments coming from both sides. Be respectful and let people talk. If you comment you’re going to get yellow carded. If you keep on talking, you’re going to get red and you’re going to get out. ... I expect you to follow the rules of proper decorum and I reserve the right -- If I give you the first warning, and it’s so egregious, and it is a yellow card, you’re going to be asked to be removed. I’ve had very egregious instances where people just get up and start yelling at the top of their lungs. I don’t care who you are, it’s just not gonna happen tonight. This is fair notice that if you have a burning desire to cause disruption, you’ll be removed.”

18. Starting with the June 27, 2023 Board meeting, Mr. Komrosky began to regularly hold up a yellow card when he identified something he wanted to label as disruptive conduct, telling the individual, or group of individuals, either that they had received a yellow card or a warning, but failing to inform them that their behavior was disrupting the meeting or that their failure to cease their behavior may result in

1 their removal.

2 19. Mr. Komrosky has continued to rely on his penalty card system in meetings  
3 subsequent to the June 27, 2023 Board meeting, though the specific language of the  
4 opening monologue he provides has changed in some ways over time.

5 20. Until at least late September 2023, the explanation that Mr. Komrosky  
6 provided for his penalty card system did not state that people will be “yellow  
7 flagged” or warned only when they are engaged in disruptive conduct, as required by  
8 Cal. Gov’t Code § 54957.95(a)(2). Nor does Defendant Komrosky’s explanation  
9 inform audience members about the requirement in the same statutory provision that  
10 they cannot be removed if they are involved in genuinely disruptive conduct but  
11 immediately cease that conduct, unless they are using force or make a true threat of  
12 force.

13 21. At the October 17, 2023 Board meeting, Mr. Komrosky provided a new  
14 explanation for his penalty card system. As he issued the revised warning, Mr.  
15 Komrosky stated, in relevant part, that “hate speech, obscenity, or any other conduct  
16 during public comment that does or is likely to disrupt the Board meeting from  
17 proceeding is prohibited. Similarly, conduct by audience members that does or is  
18 likely to disrupt public comment or any other aspect of the Board meeting from  
19 proceeding is prohibited.” Then, as he displayed his yellow and red cards, Mr.  
20 Komrosky stated that “if I use these cards, these are symbolic representations. I use  
21 them to give warnings to save time. If you see me point to you and give you a yellow  
22 card, it’s your first warning that you’re disrupting the Board meeting from  
23 proceeding. If you receive a second yellow then it automatically turns into a red and  
24 you will be asked to escort yourself out of the Board meeting. If your behavior is  
25 egregious enough you will be given a red card and you will be asked to escort  
26 yourself out. If asked to escort yourself out and if you don’t, I’ll ask security to help  
27 escort you out.”

28 22. At the August 9, 2023 open meeting, the Board voted to pass its agenda item



1 K.1, adopting new regulations “related to board meeting disruptions pursuant to  
2 Government Code Sections 54954.3 and 54957.95.” These regulations include a list  
3 of types of conduct that are deemed “disruptive” and a requirement to “advise  
4 attendees of the Board’s prohibitions of disruptions based on these and other forms  
5 of conduct.” During the meeting, Komrosky indicated that this advisal would take  
6 the form of posting a notice at Board meetings that would contain a list of the  
7 varieties of purportedly “disruptive” conduct.

8 23. The types of conduct listed in the August 9, 2023 notice are: “Use of hate  
9 speech, obscenity, and similar conduct”; “Loud, profane, and abusive language”;  
10 “Speaking, whistling, clapping, stomping feet, and other conduct interrupting  
11 recognized speaker(s)”; “Use of force and threats of force”; “Efforts to engage other  
12 attendees for the purpose of creating a disruption”; “Display of signs or other large  
13 objects designed to block attendees’ view or participation [in a] meeting”; and  
14 “Refusal to comply with directives to comply with rules of conduct.”

15 24. The notice implied that each of these types of conduct would automatically  
16 be deemed disruptive, regardless of whether they actually disrupt or impede the  
17 Board meeting.

18 25. By October 31, 2023, the Board had revised its disruptive conduct  
19 regulations, apparently in response to Ms. Geary’s August 21, 2023 letter.

20 26. The regulations are included in a “Board Meeting Poster” that is displayed  
21 for audience members to view at Board meetings, a copy of which was sent to  
22 Plaintiffs’ counsel on October 31, 2023, in response to a request for public records.

23 27. The revised regulations state that “Attendees who disrupt the meeting will be  
24 removed by the Board President or designee in accordance with Government Code  
25 section 54957.95.”

26 28. The Poster states that “Disruptions include: ‘Disturbing, impeding, or  
27 preventing orderly conduct of meeting; Use of hate speech, obscenity, or similar  
28 conduct that disrupts *or is likely to disrupt* [the] meeting; Use of loud, profane, or



1 abusive language that disrupts *or is likely to disrupt* [the] meeting; Speaking,  
2 whistling, clapping, stomping feet, or other conducting [sic] interrupting recognized  
3 speaker(s); Use of force or threats of force; Engaging other attendees for the purpose  
4 of creating a disruption; Display of signs or other large objects designed to block  
5 attendees' view or participation of meeting; Refusal to comply with directives to  
6 comply with rules of conduct; and Any other conduct that disrupts the meeting.”  
7 (emphasis added).

8 29. Mr. Komrosky regularly refers to the Poster when informing members of the  
9 public about his ability to order people removed from Board meetings. For example,  
10 at the December 12, 2023 Board Meeting, as part of Mr. Komrosky’s explanation of  
11 the types of conduct that are prohibited at Board meetings and that can result in  
12 expulsion, he pointed to copies of the Poster and stated that “we have posted our  
13 objective expectations on each of the walls for the audience members to act civilly.”

14 30. The revised regulations and Poster make clear that Mr. Komrosky or his  
15 designee will order members of the public removed when they engage in conduct  
16 they deem merely “likely to disrupt” the meeting, rather than ordering removal only  
17 when an attendee engages in conduct that *actually* disrupts the meeting.

#### 18 **B. Expulsions of Plaintiffs from Board Meetings**

19 31. Mr. Komrosky ordered Ms. Geary removed from three recent Board  
20 meetings for quietly expressing concern about Board actions while she was seated in  
21 the audience.

22 32. Ms. Geary was in the audience at the July 18, 2023 meeting, where she  
23 observed public comment provided by a man named Chauncey (“Slim”) Killens,  
24 who spoke in favor of the Board’s textbook policy, saying that God could show his  
25 power through the Board majority. Mr Killens also made a series of hateful  
26 comments directed to members of the LGBTQ+ community and their supporters,  
27 including the Governor of California. For example, he stated that “boys cannot be  
28 girls, girls cannot be boys, men do not get pregnant ... now [the Governor is]

1 justifying the sexual perversion of young children” and the “California Board of  
2 Education is grooming our children for pederasty and pedophilia.” Towards the end  
3 of his comments, Mr. Killens seemed to take on the persona of God as he informed  
4 “Pharoah Gavin Newsom” that “pride and arrogance is why I destroyed Pharaoh of  
5 Egypt and his ... army, and if necessary, I will destroy you and your woke army.”

6 33. Earlier in the meeting, Mr. Komrosky had ordered the expulsion of Temecula  
7 Valley Unified School District teacher Jennifer (“Jennee”) Scharf for calling Board  
8 Member Danny Gonzalez a “homophobe” while she was providing public comment.

9 34. Just before Mr. Killens spoke, Mr. Komrosky ordered Pastor Tim Thompson  
10 expelled for referring to another Board member as “probably a communist” during  
11 his public comments.

12 35. Neither Ms. Scharf nor Pastor Thompson were disruptive in any way. They  
13 were both clearly expelled for no reason other than the content of their comments.

14 36. Ms. Geary believed that Mr. Killens’ comments were far more heated and  
15 inflammatory than the comments of either Ms. Scharf or Pastor Thompson. They  
16 were openly insulting and derogatory, and, she thought, threatening. Yet, Mr.  
17 Komrosky made no effort to dissuade him from insulting or threatening anyone and  
18 did not order him removed.

19 37. Ms. Geary did not think that Ms. Scharf or Pastor Thompson should have  
20 been expelled from the meeting because they were not disrupting it nor were their  
21 comments threatening in any way – they were merely speaking their mind, albeit  
22 using language that many people might find very critical. However, Ms. Geary also  
23 thought that if Mr. Komrosky was going to order people removed from the meeting  
24 because he thought their comments were insulting or derogatory, then it did not  
25 make sense that Mr. Killens was permitted to remain in the room when Ms. Scharf  
26 and Pastor Thompson were not.

27 38. Ms. Geary was so frustrated by what she perceived as a double standard  
28 about what speakers are allowed to do or say based on whether they are supporting

1 the board majority or not supporting it, that she just held out her arms in dismay.

2 39. And, because Ms. Geary was sitting in the second row in direct eye contact  
3 with the Mr. Komrosky, she said something to him in a conversational voice like  
4 “What is this? I don’t understand. Are we allowed to threaten people?” as the next  
5 speaker was approaching the podium.

6 40. Ms. Geary did not impede the progress of the new speaker or attempt to stop  
7 him from speaking. Before the speaker reached the podium, Mr. Komrosky held up  
8 his red card, ordering Ms. Geary expelled from the meeting without warning her that  
9 she was being disruptive or that she would be expelled if she did not stop speaking.

10 41. Because the Board was waiting for that speaker to reach the podium and  
11 begin his comments, there was no Board business occurring at the time Ms. Geary  
12 spoke from the audience, and hence no business for her to disrupt.

13 42. As she gathered her belongings, and as three sheriff’s deputies approached  
14 Ms. Geary to escort her out, Board Member Allison Barclay noted “She has a valid  
15 point. That definitely sounded like a threat... I mean, am I wrong? Joe was that not a  
16 threat?”

17 43. Ms. Geary’s expulsion was covered on the television news. Friends and  
18 colleagues asked her about it and wanted to know if she had been arrested. She was  
19 forced to explain what happened and to let people know that she was not trying to be  
20 a troublemaker or to disrupt a meeting, but only felt a need to stand up when she sees  
21 someone violating others’ constitutional rights.

22 44. Mr. Komrosky also ordered Ms. Geary removed from the August 9, 2023  
23 Board meeting when the Board was discussing new disruptive conduct regulations.  
24 Ms. Geary was speaking in a calm and low voice to people sitting around her in the  
25 audience, to question the Board’s understanding and definitions of “hate speech,”  
26 and to say that the proposed regulations would violate the public’s First Amendment  
27 rights. Her comments are barely audible on the video of the meeting (see  
28 <https://www.youtube.com/watch?v=r1zBmCTY7GI&t=3817s> at approximately

1 57:30), and she certainly did not speak over any board member. While she might  
2 have told the Board President that he was wrong, she was not yelling, and Mr.  
3 Komrosky never told or warned her she was being disruptive.

4 45. As Ms. Geary was expelled, Board Member Barclay told Mr. Komrosky that  
5 it was ironic that he was kicking Ms. Geary out as the Board was discussing the  
6 disruptive conduct regulations, because it was Mr. Komrosky who was actually  
7 “delaying” and “disrupting the meeting.”

8 46. When Ms. Geary attends Board meetings, it is easy for Board members,  
9 including Mr. Komrosky, to recognize that she is there to oppose the policy agenda  
10 of the Board majority. She usually sits with other people who are dressed in ways  
11 that demonstrate that they are opposed to some of the Board’s actions. Some of the  
12 people she sits with often wear blue t-shirts. She occasionally wears a One Temecula  
13 Valley Political Action Committee t-shirt with a circle logo containing a mountain  
14 graphic that would be recognizable to Mr. Komrosky as a symbol of opposition to  
15 his policies. The t-shirt is blue because it was designed to express solidarity with the  
16 teachers’ union t-shirts, which are also blue. People who attend the Board meetings  
17 to support the Board’s actions often sit on the other side of the room and often wear  
18 red. This makes it easy for the most part to tell what side of the political aisle people  
19 are on.

20 47. Mr. Komrosky also ordered Ms. Dhaliwal expelled from the September 1,  
21 2023 special Board meeting when she was providing public comment.

22 48. The meeting had an agenda item to change the qualifications needed to hire a  
23 Superintendent. The agenda item included a “rationale” section and a job description.

24 49. Ms. Dhaliwal wanted to provide public comment objecting to both the  
25 “rationale” section and the job description, but Mr. Komrosky apparently determined  
26 that her comments did not address the agenda item, and interrupted her, telling her,  
27 in effect, to “stick to the agenda,” before instructing her to yield her time, and cutting  
28 her microphone feed.

1        50. When Ms. Dhaliwal continued to speak, Mr. Komrosky ordered a sheriff's  
2 deputy to have her removed from the meeting. To avoid being escorted out by law  
3 enforcement officers, Ms. Dhaliwal left the meeting on her own.

4        51. Throughout her comments, Ms. Dhaliwal spoke in an even tone. She did not  
5 shout, scream, or engage in any conduct that disrupted the Board meeting. Mr.  
6 Komrosky did not warn her that she was engaging in disruptive conduct, or provide  
7 an opportunity for her to cease engaging in any allegedly disruptive conduct, before  
8 ordering her expelled.

9            **C. Expulsions of Other Members of the Public from Board Meetings**

10        52. Mr. Komrosky ordered a woman named Monica Lacombe removed from the  
11 May 16, 2023 meeting after pointing at a group of people sitting together in one part  
12 of the room, and telling them "audience, this is a warning, this is a warning to this  
13 group over here. First warning." It is unclear what provoked Mr. Komrosky's ire, but  
14 Ms. Lacombe immediately agreed to leave, but told Mr. Komrosky not to point at  
15 them in a soft but firm voice, as she pointed back at him. Mr. Komrosky continued to  
16 point at Ms. Lacombe, telling her "you got the first warning." Ms. Lacombe again  
17 told Mr. Komrosky "don't do that" in a fairly soft voice. She stopped speaking, but  
18 Mr. Komrosky nevertheless told Ms. Lacombe "You're outta here." As she started to  
19 leave, Mr. Komrosky ordered security to escort Ms. Lacombe out. Mr. Komrosky  
20 never told Ms. Lacombe that she was engaged in disruptive conduct.

21        53. During the public comment period of the otherwise closed session of the June  
22 13, 2023 Board meeting, Pastor Deon Hairston criticized the Board's decision to  
23 implement its purported "critical race theory" or "CRT" ban, addressing what he  
24 considered poor leadership and racist decision making. At one point during his  
25 comments, Mr. Komrosky interrupted Pastor Hairston, and told him to "be  
26 respectful, Deon." As part of his public comment in the open session of the same  
27 meeting, Pastor Hairston addressed a history of Mr. Komrosky's having targeted  
28 Black members of the public for expulsion. He noted that he was the only Black

1 speaker at the public comment period of the closed session earlier that day, and that  
2 even though other speakers had addressed the CRT ban during that session, he was  
3 the only speaker Mr. Komrosky interrupted and told he was off topic. He also noted  
4 that Mr. Komrosky had ejected three Black women in earlier meetings. He said that  
5 even white community members had approached him, asking why Mr. Komrosky  
6 was “targeting Black people in such an openly racist manner, with no shame?” Mr.  
7 Hairston said that the community had noticed Mr. Komrosky’s “habit of kicking  
8 Black people out,” and reminded the board that Mr. Komrosky had ordered him  
9 removed from an earlier meeting after Pastor Hairston objected to a white woman’s  
10 yelling that he should “go back to Africa.”

11 54. Later in the June 13, 2023 open session, Mr. Komrosky targeted two  
12 audience members for ejection. If the people who were ejected were engaged in any  
13 conversation, it was not loud enough to be captured in the recording, and clearly was  
14 not genuinely disruptive. Nevertheless, Mr. Komrosky can be heard saying “That’s a  
15 first warning for the person in the audience right there. Thank you. Thank you. Let  
16 us conduct business. Thank you. Audience member. Second warning, both of you are  
17 removed.” There was no time at all between Mr. Komrosky’s reference to a second  
18 audience member and his decision to eject both people. Mr. Komrosky certainly  
19 provided the second audience member no opportunity to cease the allegedly  
20 disruptive conduct, or even to be clearly accused of having engaged in disruptive  
21 conduct.

22 55. Mr. Komrosky ordered Temecula Valley Unified School District teacher  
23 Jennee Scharf removed from the July 18, 2023 Board meeting after she called Board  
24 member Danny Gonzalez a “homophobe” while she was providing public comment  
25 and speaking in a calm and measured tone. As the *Los Angeles Times* reported, Mr.  
26 Gonzalez had supported a decision to reject proposed instructional material that  
27 mentioned “slain gay rights leader Harvey Milk” by baselessly claiming “[w]ithout  
28



1 evidence... that [the] proposed instruction would promote pedophilia.”<sup>1</sup> Ms. Scharf’s  
 2 conduct was in no way disruptive, and Mr. Komrosky’s actions left Board member  
 3 Allison Barclay befuddled, forcing her to ask for an explanation and telling Mr.  
 4 Komrosky that she objected to the ejection.

5 56. In defense of his actions, Mr. Komrosky could only offer that “we’re gonna  
 6 conduct this meeting without name calling, racism, derogatory remarks to the board  
 7 members like what just occurred.”

8 57. At the August 9, 2023 Special Session Board meeting, Mr. Komrosky  
 9 suggested that the reason he ordered Ms. Scharf removed from the July 18 meeting  
 10 was that he considered her use of the word “homophobe” to be hate speech.

11 58. When he was interviewed for the August 28, 2023 episode of the “Point.  
 12 Blank. Truth.” podcast, Mr. Komrosky confirmed his belief that what he referred to  
 13 as “the conventional First Amendment” does not apply to Board meetings, where he  
 14 is “justified” in ordering people expelled when they say words that he considers  
 15 “hate speech,” including “homophobe, groomer, pedophile, you know, white  
 16 supremacist or, whatever” because such words “could elicit violence.”<sup>2</sup>

17 59. Minutes after ordering Ms. Scharf removed from the July 18 meeting, Mr.  
 18 Komrosky ordered Pastor Tim Thompson expelled for referring to another Board  
 19 member as “probably a Communist” because he had expressed support for Governor  
 20 Newsom’s comments about the district. Like Ms. Scharf, Mr. Thompson was  
 21 speaking in a calm but deliberate and forceful tone during public comment and did  
 22 nothing more than criticize a Board member.

23  
 24 <sup>1</sup> Mackenzie Mays, *Temecula School Board Outrage Over LGBTQ+ Lessons*  
 25 *Motivates Newsom to Rush New Textbook Law*, L.A. TIMES (July 19, 2023),  
 26 [https://www.latimes.com/california/story/2023-07-19/newsoms-push-for-textbook-](https://www.latimes.com/california/story/2023-07-19/newsoms-push-for-textbook-regulation-defies-current-state-law)  
 27 [regulation-defies-current-state-law](https://www.latimes.com/california/story/2023-07-19/newsoms-push-for-textbook-regulation-defies-current-state-law). Video of the incident can be viewed at  
 28 [https://www.youtube.com/watch?v=NN-Z\\_IcswqM](https://www.youtube.com/watch?v=NN-Z_IcswqM).

<sup>2</sup> *Point.Blank.Truth. Podcast*, iHEART (Aug. 28, 2023),  
<https://www.iheart.com/podcast/338-pointblanktruth-podcast-121908933/>.



1       60. At the August 9, 2023 Special Session Board Meeting, after the Board  
2 abruptly ended public comment about a motion to hire a law firm to represent it in a  
3 challenge to the Board's purported ban on "CRT," some of the audience members on  
4 one side of the room objected to the decision. There are audible boos on the  
5 recording of the meeting, and one person yells out "Dictator, Dictator, kick me out, I  
6 don't care." While that individual may have been engaged in disruptive conduct,  
7 other members of the public who were sitting on that side of the room were not  
8 engaged in disruptive conduct but Mr. Komrosky nevertheless ejected them from the  
9 meeting.

#### 10       **D. Brown Act Procedural History**

11       61. When it enacted the Brown Act, the California Legislature found and  
12 declared that public agencies and boards exist to aid in the conduct of the people's  
13 business, and their actions are intended to be taken openly and their deliberations be  
14 conducted openly. *See* Cal. Gov't Code § 54950. Accordingly, "[a]ll meetings of the  
15 legislative body of a local agency shall be open and public, and all persons shall be  
16 permitted to attend any meeting of the legislative body of a local agency." Cal. Gov't  
17 Code § 54953(a). Additionally, "[e]very agenda for regular meetings shall provide an  
18 opportunity for members of the public to directly address the legislative body on any  
19 item of interest to the public, before or during the legislative body's consideration of  
20 the item, that is within the subject matter jurisdiction of the legislative body . . . ."  
21 Cal. Gov't Code § 54954.3(c).

22       62. "The legislative body of a local agency shall not prohibit public criticism of  
23 the policies, procedures, programs, or services of the agency, or of the acts or  
24 omissions of the legislative body." *Id.*

25       63. The Brown Act provides a private right of action and sets requirements for  
26 "any interested person" to "commence an action by mandamus, injunction, or  
27 declaratory relief for the purpose of stopping or preventing violations or threatened  
28 violations of [the Act] by members of the legislative body of a local agency or to

1 determine the applicability of [the Act] to ongoing actions or threatened future  
2 actions of the legislative body, or to determine the applicability of [the Act] to past  
3 actions of the legislative body.” Cal. Gov’t Code § 54960.

4 64. Plaintiff Julie Geary complied with these requirements after she was  
5 repeatedly ordered removed from Board meetings July 18, 2023 and August 9, 2023  
6 when she was not engaged in disruptive conduct by timely sending a letter to Board  
7 President, Mr. Komrosky, and all Board Members, on August 21, 2023. The letter  
8 stated that Mr. Komrosky and the Board had violated the Brown Act and the First  
9 Amendment and California constitution in numerous ways over the previous several  
10 months, that the violations continued through the present, and that the Board had  
11 enacted policies that would ensure continued violations in the future. The letter  
12 demanded that the Board cease and desist its Brown Act violations.

13 65. The letter notified Mr. Komrosky and other Board members that Ms. Geary  
14 and/or other interested parties could take legal action pursuant to Government Code  
15 § 54960.2(b) if the Board did not respond to the letter within 30 days, providing its  
16 unconditional commitment to cease, desist from, and not repeat the violations  
17 described in the letter. Ms. Geary granted two extensions based on requests from the  
18 Board’s attorney, agreeing that the Board could have until October 18, 2023 to  
19 provide an adequate response under § 54960.2(b).

20 66. While Ms. Geary was waiting for a response to her August 21, 2023 letter,  
21 the Board met on August 17, 2023. During that meeting, Mr. Komrosky engaged in  
22 further conduct that violated the Brown Act and First Amendment.

23 67. On October 18, 2023, Mr. Komrosky replied to the Ms. Geary’s August 21,  
24 2023 letter with a letter stating that the Board “unconditionally commits that it will  
25 cease, desist from, and not repeat” the actions alleged in the August 21, 2023 letter.

26 68. On October 27, 2023 Plaintiffs’ counsel responded to Mr. Komrosky’s  
27 October 18, 2023 letter, expressing concern about Mr. Komrosky’s conduct during  
28 the October 17, 2023 Board meeting, and notifying him that violation of the terms of

1 an unconditional commitment to cease and desist from a Brown Act violation  
2 constitutes an independent violation of the Brown Act.

3 Cal Gov't Code § 54960.2(d). The letter advised Mr. Komrosky that future Brown  
4 Act and First Amendment violations would expose the Board and the District to  
5 additional potential liability. The letter also requested a copy of the Board's current  
6 disruptive conduct regulations pursuant to the California Public Records Act.

7 69. On October 31, 2023, the Board's Director of Compliance for Human  
8 Resources Development, Michael D. Marble, responded to the Public Records  
9 request by providing a "Board Meeting Poster" including the new disruptive conduct  
10 regulations.

11 70. Those regulations suffer from the same constitutional infirmities addressed in  
12 Ms. Geary's August 21, 2023 letter. The revised regulations state that "Disruptions  
13 will not be tolerated" and that attendees who disrupt the meeting will be removed by  
14 the Board President or designee. The Poster states that "Disruptions include" a  
15 variety of forms of conduct, including "[u]se of hate speech, obscenity, or similar  
16 conduct that disrupts *or is likely to disrupt* [the] meeting" and "[u]se of loud,  
17 profane, or abusive language that disrupts *or is likely to disrupt* [the] meeting."  
18 (emphasis added).

19 71. By continuing to violate the First Amendment and Brown Act even after  
20 sending the October 18, 2023 unconditional cease and desist commitment letter, the  
21 Board and Mr. Komrosky have voided their commitment to avoid future First  
22 Amendment and Brown Act violations, making clear that their commitment was  
23 hollow. Plaintiffs Geary and Dhaliwal therefore proceed with their claims for  
24 declaratory and injunctive relief and damages.

## 25 **CAUSES OF ACTION**

### 26 **FIRST CLAIM FOR RELIEF**

27 [Against Defendant Komrosky]

28 (42 U.S.C. § 1983 - U.S. Const. Amend. I)

1       72. Plaintiffs allege and replead all the allegations of the preceding paragraphs of  
2 this Complaint and incorporate them here by reference.

3       73. Mr. Komrosky has deprived Plaintiffs of their rights guaranteed by the First  
4 Amendment as incorporated by the Fourteenth Amendment of the United States  
5 Constitution.

6       74. At all times, Defendant Komrosky has been, is presently, and will be, acting  
7 under the color and authority of the laws of the State of California.

8       75. The “regulations related to board meeting disruptions pursuant to  
9 Government Code sections 54954.3 and 54957.95” that the Board adopted with the  
10 passage of agenda item K.1 (“Item K.1”) at its August 9, 2023 Special Board  
11 Meeting deem various forms of speech and expressive conduct inherently disruptive  
12 regardless of whether they actually disrupt or impede a Board meeting, and they  
13 grant Mr. Komrosky or his designee the authority to expel members of the public for  
14 speech and conduct that does not actually disrupt the meeting. The revised  
15 regulations sent to Plaintiffs’ counsel on October 31, 2023, and posted at Board  
16 meetings after that date contain the same infirmities and grant Mr. Komrosky or his  
17 designee the authority to expel members of the public for speech and conduct they  
18 conclude is “likely to disrupt the meeting” regardless of whether it actually does.  
19 These regulations, or the revised version sent to Plaintiffs’ counsel on October 31,  
20 2023, are official Board policy under Government Code § 54954.3, and they ratify  
21 Mr. Komrosky’s pattern and practice of ordering members of the public expelled  
22 from Board meetings when they have not engaged in disruptive behavior.

23       76. The regulations adopted by the passage of Item K.1 are not sufficiently  
24 narrowly tailored to serve any appropriate government interest or are otherwise  
25 unreasonable in light of the purposes served by the Board meetings.

26       77. The regulations adopted by the passage of Item K.1 are also unduly vague  
27 and ambiguous. They fail to provide adequate notice because they fail to define key  
28 terms, including “likely to be disruptive” and “hate speech” that would indicate what

1 speech and expressive conduct is prohibited or may be permitted.

2 78. By leaving in place, enforcing, and/or threatening to enforce Item K.1,  
3 Defendant Komrosky deprives Plaintiffs and others of rights guaranteed by the First  
4 and Fourteenth Amendment of the United States Constitution. Additionally, Mr.  
5 Komrosky ordered Ms. Geary expelled from the July 18, 2023 and August 9, 2023  
6 Board meetings, and ordered Ms. Dhaliwal removed from the September 1, 2023  
7 Board meeting, when they were not engaged in disruptive conduct, violating their  
8 rights to free speech and free expression, and their right to petition the government  
9 under the First Amendment to the United States Constitution.

10 79. Defendant Komrosky continues to chill the constitutional rights of Plaintiffs,  
11 as well as other people who wish to speak out and criticize the actions of Board  
12 members, by enforcing or threatening to enforce a vague and overbroad set of  
13 “disruptive conduct” regulations that restrict protected expression at open and public  
14 Board meetings.

## 15 **SECOND CLAIM FOR RELIEF**

16 [Against All Defendants]

17 (Free Speech Under Cal. Const. art. I § 2))

18 80. Plaintiffs allege and replead all the allegations of the preceding paragraphs of  
19 this Complaint and incorporate them here by reference.

20 81. Defendants' rules, policies, and actions, as alleged in this Complaint, deprive  
21 Plaintiffs, and members of the general public desiring to speak at Board meetings, of  
22 the right to free speech as guaranteed by Article I, section 2 of the California  
23 Constitution.

## 24 **THIRD CLAIM FOR RELIEF**

25 [Against Defendant Komrosky]

26 (42 U.S.C. § 1983 - U.S. Const. Amend. I)

27 82. Plaintiffs allege and replead all the allegations of the preceding paragraphs of  
28 this Complaint and incorporate them here by reference.

1       83. Mr. Komrosky employs his penalty card system to order people expelled  
2 from Board meetings when they have not engaged in disruptive conduct.

3       84. Mr. Komrosky lacks either a compelling or substantial legitimate government  
4 interest in regulating speech and expression in the manner accomplished by use of  
5 his penalty card system.

6       85. The penalty card system is not sufficiently narrowly tailored to serve any  
7 appropriate government interest and is otherwise unreasonable.

8       86. To implement the penalty card system, Mr. Komrosky provides an  
9 explanation of prohibited conduct that is unduly vague and ambiguous. It fails to  
10 provide adequate notice because it fails to define key terms that would indicate what  
11 speech and expressive conduct is prohibited or may be permitted.

#### 12                               **FOURTH CLAIM FOR RELIEF**

13                               [Against All Defendants]

14               (Violations of the Ralph M. Brown Act, Cal. Gov't Code §§ 54960, 54960.1,  
15                               54960.2, 5497.95)

16       87. Plaintiffs allege and replead all the allegations of the preceding paragraphs of  
17 this Complaint and incorporate them here by reference.

18       88. The TVUSD Board is a legislative body of a local agency and is thus subject  
19 to the Brown Act. Cal. Gov't Code § 54952; *see also* Cal. Educ. Code § 35145.

20       89. As a local agency, Defendant TVUSD is subject to the Brown Act. Cal.  
21 Gov't Code § 54951; *see also* Cal. Educ. Code § 35145.

22       90. The Brown Act vests the presiding member of Board meetings and their  
23 designee with the authority to remove, or cause the removal of, an individual for  
24 disrupting the meeting, but only if the individual is “engaging in behavior during a  
25 meeting of a legislative body that actually disrupts, disturbs, impedes, or renders  
26 infeasible the orderly conduct of the meeting” and only if he warns “the individual  
27 that their behavior is disrupting the meeting and that their failure to cease their  
28 behavior may result in their removal” and if “they do not promptly cease their

1 disruptive behavior.” Cal. Gov’t Code § 54957.95.

2 91. Mr. Komrosky’s decisions to expel Ms. Geary from the July 18, 2023 and  
3 August 9, 2023 Board meetings, and to expel Ms. Dhaliwal from the September 1,  
4 2023 Board meeting, when they were not engaged in disruptive conduct, and without  
5 warning them that they were engaged in disruptive conduct, violated their rights to  
6 observe and address the Board.

7 92. Plaintiff Geary demanded Defendants cure or correct/cease and desist those  
8 violations.

9 93. While Defendants provided cease and desist assurances, they did so  
10 immediately after repeating some of the violations alleged in Ms. Geary’s cease and  
11 desist letter. Then, rather than curing and correcting the violations after providing  
12 their cease and desist assurances, Defendants continued to violate the Brown Act.  
13 This violation of the terms of an unconditional commitment to cease and desist from  
14 a Brown Act violation constitutes an independent violation of the Brown Act under  
15 Government Code Section 54960.2(d).

16 94. Consequently, Plaintiffs seek relief from this Court.

17 **REQUEST FOR RELIEF**

18 Wherefore, Plaintiffs respectfully request that the Court:

- 19 A. Issue a declaration that all Defendants violated and threaten to continue to  
20 violate the First Amendment of the United States Constitution and Cal.  
21 Const. art. I § 2 by enacting a vague and overbroad set of “disruptive  
22 conduct” regulations that restrict protected expression at open and public  
23 Board meetings, and that Mr. Komrosky violated the First and Fourteenth  
24 Amendments to the United State Constitution and the Brown Act by  
25 ordering Plaintiffs and members of the public expelled from Board  
26 meetings when they were not engaged in disruptive conduct, and without  
27 adequate warning;
- 28 B. Enjoin Defendant Komrosky from committing Constitutional and Brown



1 Act violations detailed in this Complaint;

2 C. Enjoin Defendant Komrosky from continuing to enforce, post, or refer the  
3 public to the “disruptive conduct” regulations the District and Board  
4 adopted with the passage of agenda item K.1 (“Item K.1”) at the August 9,  
5 2023 Special Board Meeting or to any revised version of those regulations  
6 that allow for the removal of audience members who are not engaged in  
7 conduct that actually disrupts a Board Meeting;

8 D. Order Defendants to provide an unconditional assurance per Government  
9 Code § 54960.2 that Defendants will comply with the Brown Act;

10 E. Enter judgment for Plaintiffs for nominal damages of \$1 against Defendant  
11 Komrosky in his individual capacity for violations of the First Amendment  
12 and 42 U.S.C. § 1983;

13 F. Order Defendants to pay Plaintiffs’ attorneys’ fees and costs incurred in  
14 this action under 42 U.S.C. § 1988, California Government Code §  
15 54960.5, California Code of Civil Procedure § 1021.5, and any other  
16 applicable provision of law; and

17 G. Grant such further and different relief as this Court may deem just and  
18 proper.

19 Respectfully submitted,

20 ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
21

22 Dated: January 4, 2024 By: s/ Jonathan Markovitz  
23 JONATHAN MARKOVITZ  
24 Attorney for Plaintiffs  
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